

**United States District Court  
Eastern District of Wisconsin  
Milwaukee Division**

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**John Swaffer, Jr. and  
Michael Rasmussen,**

*Plaintiffs,*

v.

**Thomas Cane, Gerald Nichol, Michael  
Brennan, William Eich, Phillip A. Koss,  
Victor Manian, and Gordan Myse, in their  
official capacities,**

*Defendants.*

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**Civil Action No. 2:08-cv-00208-JPS**

**Declaration in Support of Plaintiffs' Fee  
Petition**

**DECLARATION OF MICHAEL CROOKS**

I, Michael Crooks, make the following declaration pursuant to 28 U.S.C. Section 1746:

1. This declaration is based upon my own personal knowledge and given in support of Plaintiffs John Swaffer, et al.'s motion for attorneys' fees.
2. I am an attorney licensed to practice law in the State of Wisconsin since 1990, and in the United States District Court for the Eastern and Western Districts of Wisconsin since 1990. I am also admitted to the bars for the 7<sup>th</sup> Circuit Court of Appeals.
3. I am currently a partner, associated with the law firm of Peterson, Johnson & Murray, S.C., practicing civil litigation in the State of Wisconsin.
4. In preparing my opinion, I have discussed the case with Michael Dean, and have reviewed the Court's order granting plaintiffs' motion for summary judgment and the plaintiffs' amended

complaint, submissions on summary judgment, motion to dismiss and motion for temporary restraining order, as well as the docket sheet for this case. It is my understanding that plaintiffs secured a declaratory judgment that the PAC-style requirements, Wis. Stat. § 11.23 and the disclaimer requirement, Wis. Stat. § 11.30, are unconstitutional as applied to the Plaintiffs.

5. I have reviewed the hourly rates being charged for the attorneys who worked on this case on behalf of Plaintiffs, as well as the biographical information that I understand is being provided to the Court in attachments to the declaration of James Bopp. Based upon this information, it is my opinion that the rates of \$199 for Kaylan Philips; \$209 for Clayton Callen; \$231 for Josiah Neeley; \$289 for Jeffrey Gallant, attorney; \$319 for Richard Coleson and Michael D. Dean; and \$366 for James Bopp, Jr. are fair and reasonable for the current Wisconsin market for legal services considering the experience and expertise of the attorneys involved as well as the type and nature of the litigation, and that these rates closely approximate the prevailing market rates for such services in the Eastern District of Wisconsin legal community. That these rates are reasonable for the Wisconsin legal community is bolstered by my review of the Survey of Law Firm Economics, 2007 and 2008 Editions, conducted by Altman Weil, Inc.

6. In addition to these hourly rates, attorneys in Wisconsin typically charge separately for photocopies, fax services, long distance charges, and computerized legal research. I have reviewed the billing records submitted by each of Plaintiffs' attorneys and believe that their charges for such

expenses are reasonable and within the range of prevailing market rates for such expenses in the Eastern District of Wisconsin legal community.

7. I have reviewed the billing statements of both lead and local counsel who represented plaintiffs and believe that the representation of plaintiffs was efficient, expeditious and reflected substantial expertise and capability in representing plaintiffs' constitutional claims.


8. Therefore, it is my opinion that the overall number of hours billed by these attorneys appears to be reasonable considering the constitutional importance of the issues litigated.

9. The travel time and expenses incurred by the Bopp firm were also reasonable. In the Eastern District of Wisconsin market it is common to bring in out of town counsel with expertise in a specific type of litigation. Such specialized counsel can often provide a more effective representation and are often more efficient as well.

10. In conclusion, it is my opinion that the total fees sought by Plaintiffs' attorneys are reasonable and appropriate based upon the standards established by 42 U.S.C. § 1988.

I affirm under penalty of perjury that the foregoing is true and correct.

Executed on this 6 day of April, 2009.

  
Michael Crooks

Subscribed and sworn to this 6<sup>th</sup> day  
of April, 2009.

  
Patrick Crooks

Notary Public, State of Wisconsin

My commission expires: is permanent.